THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 23.10.2007

CS(OS) 1721/2006

MRS ANISHA MALHOTRA & ANOTHER ...Plaintiffs

- versus -

AMITESHWAR SINGH & ORS ...Defendants

Advocates who appeared in this case:
For the Plaintiffs : Mr Dinesh C Pandey with Mr Piyush Sharma.
For the Defendant Nos 1,2&3 : Mr Rajiv K Garg
For the Defendant Nos 4&5 : Mr Ravi K Aggarwal with Ms Ritika.

CORAM:-
HON'BLE MR JUSTICE BADAR DURREZ AHMED

1. Whether Reporters of local papers may be allowed to see the judgment?

2. To be referred to the Reporter or not?

3. Whether the judgment should be reported in Digest?

BADAR DURREZ AHMED, J (ORAL)

IA.No. 7228/2007

This is an application filed on behalf of the plaintiffs seeking a direction to the registry to de-seal the original agreement to sell dated 21.10.2004 and return the same to the plaintiffs. The learned counsel for the defendants have not objection to this application being allowed. The same is allowed.

IA.No. 7229/2007

This is an application filed on behalf of the plaintiff for refund of the court fee amount of Rs 1,48,850/- paid by the plaintiffs at the time of presentation of the plaint. The parties had been referred to mediation which has ultimately resulted in settlement of the disputes. In view of the provisions of Section 89 of the Code of Civil Procedure, 1908 and section 16 of the Court Fees Act, 1870, the plaintiffs are entitled to a refund of the court fee paid on the plaint. The appropriate certificate be issued. This application is allowed to the aforesaid extent.

IA.No. 7222/2007

1. This is an application under Order 23 Rule 3 of the Code of Civil Procedure read with Section 151 thereof filed jointly on behalf of the plaintiff and the defendant praying that the joint Memorandum of Settlement dated 23.05.2007 annexed as annexure P-1 be taken on record and the suit be disposed of in terms of the said settlement. It is also prayed that the defendant No.5 be deleted from the array of parties.

2. The Memorandum of Settlement has been arrived at between the plaintiff and the defendant Nos 1 to 4. The defendant No.5 is neither a necessary nor a proper party and all the counsel are agreed on this. Accordingly, first of all, the defendant No.5 is deleted from the array of parties.

Insofar as the Joint Memorandum of Settlement dated 23.05.2007 is concerned, the same has been examined by me and I find that the same is lawful. The other terms of settlement are incorporated in the application itself. The same are also lawful. Accordingly, the settlement, arrived at between the parties, is taken on record and the parties are bound by the terms thereof including the terms of joint Memorandum of Settlement dated 23.05.2007. The application has been signed by the plaintiffs as well as the defendant Nos 1 to 4 and by Mr Sidharth Swarup (the former defendant No.5). The respective counsel for the parties have also signed the said application. The affidavits of Mrs Anisha Malhotra and Mr Gaurav Malhotra (Plaintiff Nos 1 and 2) as well as Mr Amiteshwar Singh, (defendant No.1) Ms Ritu Kapur (defendant No.4) and the said Mr Sidharth Swarup are on record. Mr Amiteshwar Singh is also the authorised representative of defendant Nos 2 and 3. This application alongwith the annexures shall be marked as Exhibit C-1. It shall form part of the decree. The suit is decreed in terms of the Joint Memorandum of Settlement dated 23.05.2007.

This application, the suit as well as all other pending applications stand disposed of.

BADAR DURREZ AHMED
(JUDGE)

October 23, 2007
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